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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,598	09/12/2001	Tim Goldstein	10007811-1	8279

7590 03/20/2006
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

SELBY, GEVELL V

ART UNIT PAPER NUMBER

2615

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/954,598

Applicant(s)

GOLDSTEIN ET AL.

Examiner

Gevell Selby

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2615

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See the attached Response to Arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


DAVID OMETZ
SUPERVISORY PATENT EXAMINER

Response to Arguments

1. Applicant's arguments filed 11/08/05 have been fully considered but they are not persuasive. The applicant submits the prior art does not disclose the following limitations of the claimed invention:

1) "wherein, subsequent to cropping of the merged image, the uncropped portion is stored by the means for storing and a corresponding cropped portion is deleted therefrom" as claimed in claim 1;

2) "deleting a cropped portion of the merged image such that information corresponding to cropped portions of the captured images are no longer stored in the digital camera" as claimed in claim 9;

3) "logic that deletes a cropped portion of the merged image prior to storing the uncropped portion of the merged image such that information corresponding to cropped portions of the captured images are no longer stored in the digital camera" as claimed in claim 17. The Examiner respectfully disagrees.

Examiner's Reply:

2. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In regard to claims 1, 9, and 17, the Kinjo reference discloses a digital camera, method and computer readable medium comprising a means for merging (camera 14, memory 16, and image composition section 18) at least two images of a scene to form a

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merged image (see Para. 50 and figure 3B: the image composition section creates a composite image of the image already photographed image data in memory and the image presently being photographed and displays it on the monitor 12). The Kinjo reference discloses a means for storing an uncropped merged image, (see figure 1, element 16) the means for storing stores the at least two images and provides at least two images for merging, responsive to the at least two images being captured (see Para. 15 and 59: A picture of subject A and a picture of subject B is captured and stored in the memory 16), but the reference does not teach that this memory is a means for storing an uncropped portion of the merged image. The Kinjo reference also does not disclose a means for cropping the merged image as the examiner stated in the previous office action. The Ishihama reference was brought in to teach a means for cropping a displayed image and a means for storing an uncropped portion of an image (see column 4, lines 8-35: When an image is displayed on the display and the camera is set to zoom-in on or crop the image, an opaque frame line is displayed on the display; The portion inside the frame is the uncropped portion of the image to be magnified and saved into memory; The portion outside the frame is the cropped portion and is excluded from being saved). By modifying the Kinjo reference in view of the Ishihama reference to have the means of cropping and the means for storing the cropped image, the combination discloses the claimed invention.



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